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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,568	03/01/2004	Sal Herman	Herman P-302	9874

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/790,568	Applicant(s) HERMAN, SAL	
	Examiner Ruth C. Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Objections

1. Claims 1 and 3 are objected to because of the following informalities: Claim 1, line 23, "members" should be replaced with --member--. Correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawie et al. (US 4,463,482) in view of Hermann (US 4,901,408) and Ochsman (US 5,913,478) .

Hawie discloses an apparatus fastening suspenders to a garment (C. 1, L. 5-9). The apparatus comprises a fastener. The suspender fastener includes an actuating cam member (22,23), at least one first clamping member (16) and at least one second back plate member (11). The actuating cam member urges downwardly onto the at least one first clamping member such that the at least one first clamping member is clamped into place against the at least one second back plate member. The at least

one second back plate member is pivotally attached to the first clamping member by means of opposed side projections (19,20) that are confined within openings (between 14 and 12 and between 14 and 13) in flanges extending upwardly from the at least one second back plate member (Figs. 1-3). The at least one second back plate member being planar and having a plane (Figs. 1-3). The actuating cam member including a downwardly slanting substantially planar face plate (22) and an integral raised hip depending cam section (23) adjacent to the first member. The cam member is pivotally attached to the second member by means of opposed side projections (23) that are confined within the openings (24) of the flanges of the second member. The actuating cam member exerts a sufficient force to maintain the suspender fastener in a closed position in operation (Fig. 2). The at least one first clamping member and the at least one second back plate member have securement fixtures (30,34) attached thereto on the surfaces facing one another and the securement fixtures having complementary male and female portions that come together and cooperate when in a closed position (Figs. 1-3). Hawie fail to disclose an upwardly extending cam member in the first clamping member, a needle post in the first clamping member and an opening in the second clamping member that receives the needle post. However, Hermann teaches an apparatus fastening suspenders to a garment (C. 1, L. 6 and 7). The apparatus comprises a fastener (78). The fastener includes an actuating cam member (70), at least one first clamping member (66) and at least one second back plate member (64). The at least one clamping member is clamped into place against the at least one second back plate member (Fig. 2e). The actuating cam member urges downwardly

onto the at least one first clamping member such that the first clamping member is clamped into place against the at least one second back plate member (Fig. 2e). The at least one first clamping member includes a needle post (74) attached thereto extending towards the at least one second back plate member in a complementary relation (Fig. 2e). The second back plate member is pivotally attached to the first clamping member by means of opposed side projections that are confined within openings in flanges extending upwardly from the second back plate member (Fig. 2e). The second member has an opening therein for receiving the needle post attached to the first member (Fig. 2e). The second back plate member being planar and having a plane (Fig. 2e). The actuating cam member including a substantially planar face plate and an integral raised hip depending cam section adjacent to the first member. The cam member is pivotally attached to the second member by means of opposed side projections that are confined within the openings of the flanges of the second member. The actuating cam member exerts a sufficient force to maintain the suspender fastener in a closed position in operation (C. 4, L. 54-65). The first and second members have securement fixtures attached thereto on the surfaces (80,82) facing one another and the securement fixtures having complementary male and female portions that come together and cooperate when in a closed position (C. 4, L. 60-65 and Fig. 2e). The needle post is being attached to the first member in a complementary relation to the opening in the second member (Fig. 2e). The opening extends through the securement fixture attached to the second member such that when the suspender fastener is in a closed position the post remains attached to the first member. The post extends through both securement

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fixtures and further extends through the garment being supported by being received within the opening in the second member whereby the fabric of the garment being supported is substantially held fixed (C. 4, L. 54-65 and Fig. 2e). The needle post distributes the weight bearing portion of the suspender fastener (C. 4, L. 60-65).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the needle post in the at least one first clamping member and an opening in the at least one second clamping member that receives the needle post as taught by Hermann in the device disclose by Hawie that has the slanting substantially planar face plate. Doing so, serves to distribute the weight bearing portion of the suspender fastener. Regarding to having an upwardly extending cam member, Ochsman demonstrates an apparatus comprising a fastener (10). The fastener includes an actuating cam member (16), at least one first clamping member (14) and at least one second back plate member (12). The at least one clamping member is clamped into place against the at least one second back plate member (Figs. 1 and 2). The actuating cam member urges downwardly onto the at least one first clamping member such that the first clamping member is clamped into place against the at least one second back plate member (Fig. 1 and 2). The at least one first clamping member includes an upwardly extending cam member (Figs. 1 and 2). The second back plate member is pivotally attached to the first clamping member by means of opposed side projections that are confined within openings in flanges extending upwardly from the second back plate member (Figs. 1 and 2). The second back plate member is planar and having a plane (Figs. 1 and 2). The actuating cam member including a

substantially planar face plate and an integral raised hip depending cam section adjacent to the first clamping member (Figs. 1 and 2). The cam member is pivotally attached to the second member by means of opposed side projections that are confined within the openings of the flanges of the second member (Figs. 1 and 2). The actuating cam member exerts a sufficient force to maintain the suspender fastener in a closed position in operation (Figs. 1-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the upwardly extending cam member in the at least one first clamping member as demonstrated by Ochsman in the device disclose by Hawie and modified by Hermann. Doing so, is considered a change in the shape of a prior art device is a design consideration within the skill of the art that is already demonstrated by Ochsman. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Hawie also discloses that:

- The at least one second back plate member is pivotally connected to the at least one first clamping member by an actuating cam member pivotally attached to the at least one first clamping member over at least one second back plate member as movable between a closed position in which both members contact and urge the at least one second back plate member against the at least one first clamping member to close the suspender fastener (Fig. 2) and an open position in which the suspender fastener is released to permit removal of the suspender fastener from the garment being supported (Fig. 1).

- The apparatus of claim 1, wherein the downwardly slanting face plate is slanting at an angle of from about 1 degree to about 40 degrees with respect to the plane of the second back plate member (Fig. 2).

Hermann also teaches providing at least two securement fixtures spaced apart in order to provide more support over a broader area of the fabric of the garment.

Hermann fails to teach that the at least on first clamping member further comprises at least two posts. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least two needle post, since it has been held that mere duplication of essential working parts of a device involve only routine skill in the art. *In re Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

4. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Croasdale (US 821,466), Andresen (US 830,759), Gutmann (US 867,655), Hawie (US 2,219,991 and US 2,837,806), Painter (US 2,251,800), Oliver (US 2,382,658), Howie (US 4,463,482), Foster (US 5,377,391) and Ochsman (US 5,913,478) are cited to show state of the art with respect to fastener having an actuating cam member with a slanted surface. Ochsman also teaches that the at least one first clamping member includes an upwardly extending cam member.

Hermann (US 4,901,408) is cited to show state of the art with respect to a fastener having a needle post in one clamping member and an opening in another clamping member so that the opening receives the post.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677


rcr

November 14, 2005


ROBERT J. SANDY
PRIMARY EXAMINER